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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,613	07/29/2003	Fraser Evans	MBT-105-B	5830

7590 05/01/2007
Thomas N. Young
YOUNG & BASILE P.C.
Suite 624
3001 West Big Beaver Road
Troy, MI 48084

EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
3632	

MAIL DATE	DELIVERY MODE
05/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/628,613

Applicant(s)

EVANS, FRASER

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 10, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

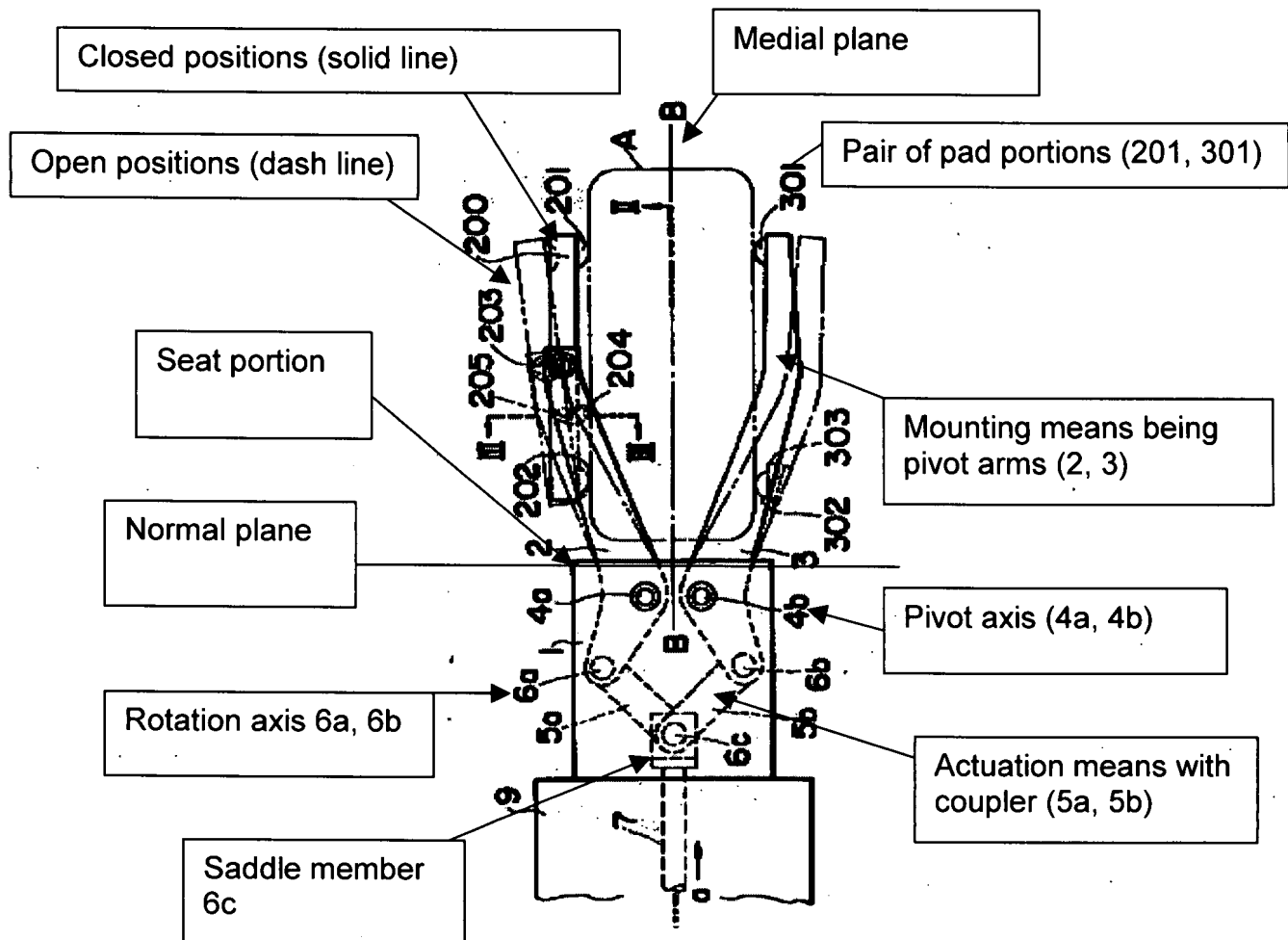
A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/11/2007 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1-4, 9, 10, and 12 as best understood stand rejected under 35 U.S.C. 102(b) as being anticipated by Asamoto (US patent no. 3,945,676).

Asamoto discloses a clamp apparatus having all the claimed features of applicant's invention as illustrated below.



Claim Rejections - 35 USC § 103

Claim 13 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Asamoto'676 in view of Wood III et al (US patent no. 4,934,511). Asamoto disclosed all the claimed features of applicant's invention except for the pad portions are of tubular shape. To provide pad portions of tubular shape are old and well-known in the

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clamping art. Wood teaches a clamp having tubular member pad portions (109, figure 8) connected to the pivotal arms (107, figure 8) of the clamp. It would have been obvious to one of ordinary skill in the art to have modify the clamp of Asamoto such that the pad portion are of tubular shape as taught by Wood. Such modification would have involved a mere substitution of one well-known pad portion for another which is well within the ambit of one of ordinary skill in the art.

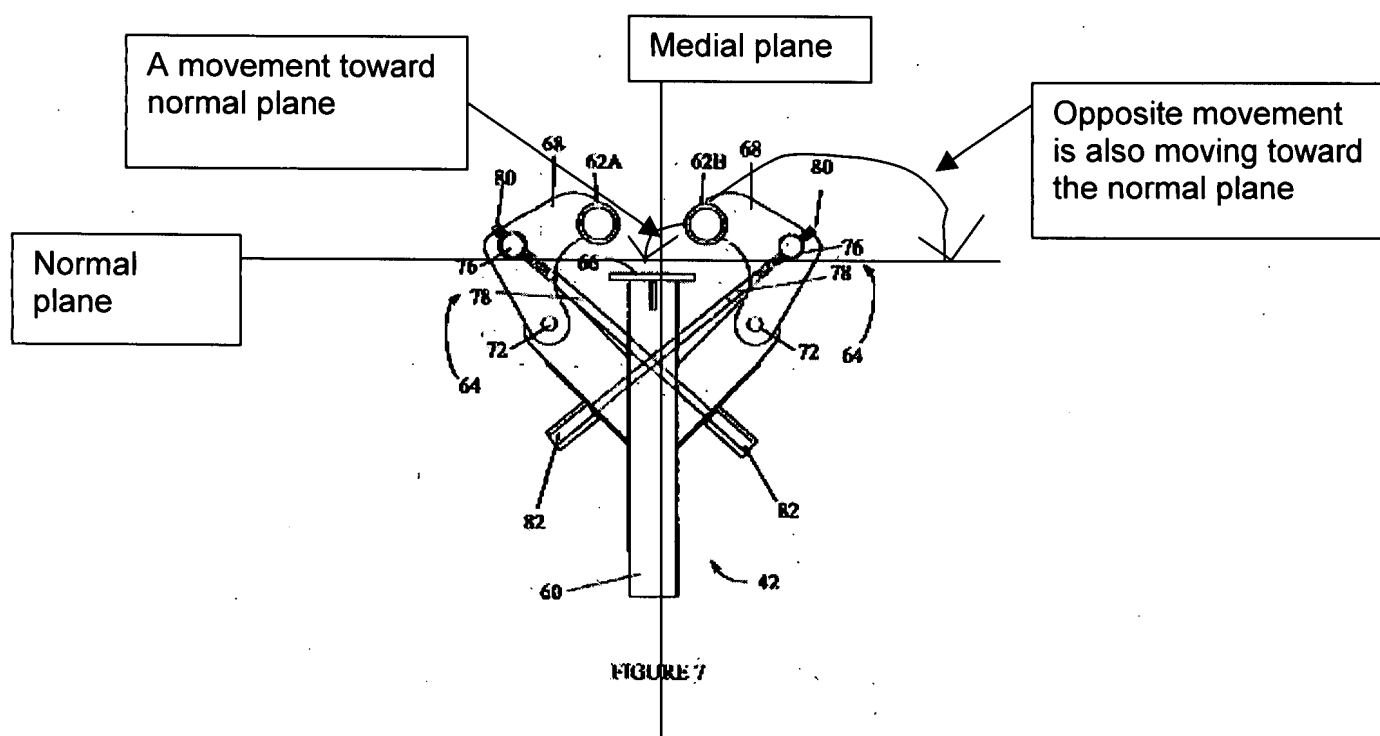
Claims 5-8 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 4/11/2007 have been fully considered but they are not persuasive. Applicant argues that Asamoto does not show the pad portions move away from the normal plane, from the closed positions to the open positions, at least the second pad portion move away from the medial plane. Examiner has noted the following; In claim 1, applicant's newly added recitation "wherein during movement **from the open positions to the closed positions**, the first pad portion moves in a direction away from the normal plane, and the second pad portion moves in a direction away from both the medial plane and the normal plane" in claim 1, second paragraph which appears to be contradictory to claim 9 which says that "during movement **from closed positions to open positions**, the pad portions move (also) in a respective directions ways from the normal plane and the medial plane".

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However, such does give examiner new insight on the claim language. The medial plane and the normal plane extends through to either side of the pad motion, such that the pad can be said to move away or toward the planes from the closed to open or vice versa which says such limitation is meaningless as direction goes and does not overcome Asamoto at all. (see illustration below).



Again applicant's recitation does not overcome Asamoto as illustrated above. Movement of the pad portions can be said to be moving towards and away from a particular plane at the same time where such plane extends through the fulcrum of the swing arm with the pad portions on its left and right side as illustrated above. If the arm

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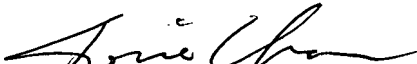
is swinging right then it can be said the arm is moving towards the right portion of the plane but away from the left portion of the plane and vice versa.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571)272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Korie H. Chan
Primary Examiner
Art Unit 3632

khc
April 17, 2007